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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,680	07/14/2003	Daniel Laurent	033818-004	4129

7590 12/02/2005

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[REDACTED] EXAMINER

VANAMAN, FRANK BENNETT

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

3618

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/617,680	LAURENT ET AL.	
	Examiner	Art Unit	
	Frank Vanaman	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8, 10-12, 14, 15, 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) 10-12, 14, 15 and 18 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-8 and 17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

Election by Original Presentation

1. Newly submitted claims 18 (independent) and 10, 11, 12, 14 and 15 (now dependent from claim 18) are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: These claims are directed to a process of operation which, as *now presented*, is patentably distinct from the apparatus (e.g., claims 1-8) in that the method can be performed with materially different apparatus, such as one lacking a pair of permanently meshed gear wheels. Note that the previously presented process claims specifically included certain apparatus limitations which are no longer recited.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 10-12, 14, 15, and 18 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Objections

2. Claims 7 and 17 are objected to because of the following informalities: in claim 7, line 3, "comprising having" is redundant, and one of the terms should be deleted; in claim 17, line 9, "the said" is redundant, and one of the terms should be deleted; in claim 17, line 16, "input shat" should be - -input shaft- -. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claims 1-8 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 24-25, "the direct coaxial connection" lacks a clear antecedent basis, although from the context it appears as though applicant may be referring to the recitation at lines 19-20; in claim 3, line 3, "the other driving state" lacks a clear antecedent basis as does "the one driving state" in claim 4, line 2; in claim 17, line 18, the recitation of plural position sensors is confusing in view of the recitation at lines 6-7, which recites at least one position sensor - the scope is not precisely defined.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated, as best understood, by Cragg (US 3,930,551). Cragg teaches a motor powered vehicle having an electric motor (51) for driving a wheel (2) mounted for rotation about an axis (37), which also includes a toothed wheel (40) rotating about the same axis, and being directly connected to the hub of the wheel (2, 31, 33, 34 see figure 4), having an arrangement with at least two gear wheels (71, 75) mounted so as to be constantly meshed with the toothed wheel (40), further including an input shaft (57, 62) driving an input gear (62) which is driven by the electric motor through a coupling arrangement; further including a gear ratio changing system (65, 76, 77, 78, 79) which allows engagement of the drive gear through one or the other of the wheels which contact the toothed wheel, being shiftable between a first driving position wherein the input shaft (57, 62) is directly connected with one gear wheel on a rotatable element (74, of 73, 74 and 75) wherein the rotatable element comprises plural gear wheels (73, 74) rotating about a common axis, and a second driving position wherein the input shaft (57, 62) is connected with another gearwheel indirectly (e.g., 40, through 70-71) to establish a different transmission ratio, thereby allowing one of no more than two driving transmission ratios to be selected, as well as a neutral position (figure 5).

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cragg. The reference to Cragg is discussed above and fails to teach the motor as being a synchronous, self-adjusting type, further having a rotor position sensor. The use of synchronous drives is very old and very well known, and it would have been obvious to one of ordinary skill in the art at the time of the invention to use, as motor 51, a synchronous motor with a position sensor for the purpose of allowing precise control of

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motor speed based on a driving frequency, and to include a position sensor for the purpose of feeding back the speed/position of the motor so as to allow the control circuit to determine whether or not the motor behavior corresponds to the demanded output values.

Allowable Subject Matter

8. Claims 2, 3, 4 and 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Claim 17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

10. Applicant is reminded that claims 10-12, 14, 15 and 18 are withdrawn from consideration as being directed to a patentably distinct process

11. As regards claims currently rejected under 35 USC §112, second paragraph, please note that rejections under 35 USC §102 and 103 should not be based upon considerable speculation as to the meaning of the terms employed and assumptions as to the scope of the claims when the claims are not definite. See *In re Steele* 305 F.2d 859, 862, 134 USPQ 292, 295 (CCPA 1962). When no reasonably definite meaning can be ascribed to certain terms in a claim, the subject matter does not become anticipated or obvious, but rather the claim becomes indefinite. See *In re Wilson* 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). As such the currently pending claims may be subject to prior art rejections not set forth herein upon the clarification of the claim language.

Response to Comments

12. Applicant's comments, filed with the amendment, have been carefully considered. As regards the reference to Cragg, note that the reference meets the claimed limitations to the breadth recited, as the shifter mechanism allows a connection between the input shaft (57, 62) and a gear wheel (e.g., 74) on a rotating element having plural gear wheels (73, 74) which rotate about a common axis, to the breadth claimed. Applicant may be suggesting that the examiner interpret the recitation of claim 1 to include limitations not specifically and/or precisely recited in the claim.

13. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). During patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969) The court explained that "reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from 'reading limitations of the specification into a claim,' to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim." The court found that applicant was advocating the latter, i.e., the impermissible importation of subject matter from the specification into the claim.). See also *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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15. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

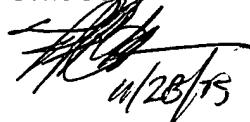
A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

F. VANAMAN
Primary Examiner
Art Unit 3618


4/26/05